

A farmer who demolishes his hog confinement buildings and crushes and sells the concrete foundations from those buildings but who does not hold himself out as being engaged (and who does not habitually engage) in selling crushed concrete at retail is making an "occasional sale" that is not subject to Retailers' Occupation Tax or Use Tax. See 86 Ill. Adm. Code 130.110. (This is a GIL.)

November 18, 2004

Dear Xxxxx:

This letter is in response to your letters dated July 27, 2004 and September 21, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I was advised by a representative in the sales tax division of the IL Dept. of Revenue to write a letter requesting a ruling about a question of whether a sale of extraordinary nature is a sales taxable event.

My client is a farmer who has demolished hog confinement buildings. The concrete foundations are being broken up, the concrete crushed by a machine he has rented, and the crushed concrete is to be sold. Is this a sales taxable event, and, if so, how should this sale be handled?

Please contact me at the number or address listed above. Thank you.

DEPARTMENT'S RESPONSE:

Section 1 of the Retailers' Occupation Tax Act states in part that:

"The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in

selling such tangible personal property at retail, . . . does not constitute engaging in a business of selling such tangible personal property at retail within the meaning of this Act..." 35 ILCS 120/1.

Because of this statutory provision, persons (as defined in the Retailers' Occupation Tax Act) do not incur Retailers' Occupation Tax liabilities upon gross receipts from such occasional sales and purchasers do not incur Use Tax liabilities in regards to such purchases. See the enclosed copy of 86 Ill. Adm. Code 130.110. A farmer who demolishes his hog confinement buildings and crushes and sells the concrete foundations from those buildings but who does not hold himself out as being engaged (and who does not habitually engage) in selling crushed concrete at retail is making an "occasional sale" that is not subject to Retailers' Occupation Tax or Use Tax.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk
Enc.